

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 13-O-10721-RAH
)	
SUSAN CLARE-VERRIER JONES,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 149446,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Respondent Susan Clare-Verrier Jones (respondent) was charged with one count of moral turpitude. She failed to participate either in person or through counsel, and her default was entered. The Office of the Chief Trial Counsel (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.¹

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that, if an attorney's default is entered for failing to respond to the notice of disciplinary charges (NDC) and the attorney fails to have the default set aside or vacated within 180 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.²

¹ Unless otherwise indicated, all references to rules are to this source.

² If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(E)(2).)

In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied and, therefore, grants the petition and recommends that respondent be disbarred from the practice of law.

FINDINGS AND CONCLUSIONS

Respondent was admitted to practice law in this state on December 4, 1990, and has been a member since then.

Procedural Requirements Have Been Satisfied

On May 24, 2013, the State Bar filed and properly served the NDC on respondent by certified mail, return receipt requested, to her membership records address.³ The NDC notified respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The U. S. Postal Service did not return the NDC as undeliverable or for any other reason.⁴

Thereafter, the State Bar sent a courtesy copy of the NDC to respondent at her membership records email address on August 14, 2013. The email message advised respondent that the State Bar deputy trial counsel (DTC) assigned to this matter was filing a motion for default which could lead to disbarment. The DTC assigned to this matter also called respondent's law firm and left a message with respondent's assistant for respondent to call the DTC immediately.⁵

³ The NDC was properly served on respondent's membership records address, which at that time was Elkins Kalt Weintraub Reuben Gartside, 2049 Century Park East, Ste. 2700, Los Angeles, CA 90067. Respondent later changed her membership address to 8957 W. 25th Street, Los Angeles, CA 90034, effective December 30, 2013.

⁴ There is no evidence as to whether the return receipt was returned to the State Bar.

⁵ Respondent and the State Bar previously communicated by voicemail and email during the investigation of this matter. According to the August 16, 2013, declaration of DTC Ross Viselman, attached to the State Bar's motion for entry of respondent's default, respondent's voicemail greeting identified herself; the information provided by respondent's law firm

Nevertheless, respondent failed to file a response to the NDC. On August 19, 2013, the State Bar filed and properly served a motion for entry of default on respondent by certified mail, return receipt requested, to her membership records address. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar DTC declaring the additional steps taken to provide notice to respondent. (Rule 5.80.) The motion also notified respondent that, if she did not timely move to set aside her default, the court would recommend her disbarment. Respondent did not file a response to the motion, and her default was entered on September 5, 2013. The order entering the default was properly served on respondent at her membership records address by certified mail, return receipt requested.⁶ The court also ordered respondent's involuntary inactive enrollment as a member of the State Bar under Business and Professions Code section 6007, subdivision (e), effective three days after service of the order, and she has remained inactively enrolled since that time.

Respondent also did not seek to have her default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On March 19, 2014, the State Bar filed and properly served the petition for disbarment on respondent by certified mail, return receipt requested, to her membership records address. As required by rule 5.85(A), the State Bar reported in the petition that (1) respondent has not contacted the State Bar since the date the order entering her default was served;⁷ (2) there are no other disciplinary matters pending against respondent; (3) respondent has no record of prior discipline; and (4) the Client Security Fund has

confirmed that she was employed there; and respondent has used her email address to communicate with the State Bar.

⁶ The return receipt was returned to the State Bar Court bearing an illegible signature and bearing a date of delivery of September 6, 2013.

⁷ The order was filed and served on the same day. Although the disbarment petition reflects September 8, 2013, as the date of service of the order entering respondent's default, this date is incorrect. The order was filed and served on September 5, 2013. Nevertheless, the court finds this error de minimis and finds that the State Bar has not had any contact with respondent since her default was entered.

not made any payments resulting from respondent's conduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on April 15, 2014.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of a respondent's default, the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that respondent is culpable as charged and, therefore, violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

Case Number 13-O-10721 (MCLE Compliance Matter)

Respondent willfully violated Business and Professions Code section 6106 (moral turpitude) by reporting to the State Bar that she was in full compliance with the State Bar's minimum continuing legal education (MCLE) requirements when she knew or was grossly negligent in not knowing that she had not completed the MCLE during the MCLE compliance period as required and therefore was not in compliance with the MCLE requirements.

Disbarment is Recommended

Based on the above, the court concludes that the requirements of rule 5.85(E) have been satisfied, and respondent's disbarment is recommended. In particular:

- (1) the NDC was properly served on respondent under rule 5.25;
- (2) reasonable diligence was used to notify respondent of the proceedings prior to the entry of her default, as the State Bar (a) filed and properly served the NDC on respondent by certified mail, return receipt requested, to her membership records address; (b) sent a courtesy copy of the NDC to respondent at her membership

- records email address; and (c) the DTC called respondent's law firm and left a message for respondent with respondent's assistant;
- (3) the default was properly entered under rule 5.80; and
- (4) the factual allegations in the NDC deemed admitted by the entry of the default support a finding that respondent violated a statute, rule or court order that would warrant the imposition of discipline.

Despite adequate notice and opportunity, respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

RECOMMENDATION

Disbarment

The court recommends that respondent Susan Clare-Verrier Jones be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

California Rules of Court, Rule 9.20

The court also recommends that respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding.

Costs

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

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ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Susan Clare-Verrier Jones, State Bar number 149446, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: June _____, 2014

RICHARD A. HONN
Judge of the State Bar Court